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UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

IN RE: JUUL LABS, INC., MARKETING,
SALES PRACTICES, AND PRODUCTS
LIABILITY LITIGATION

Case No. 19-md-02913-WHO

**JOINT CASE MANAGEMENT
CONFERENCE STATEMENT AND
PROPOSED AGENDA**

This Document Relates to:

ALL ACTIONS

Pursuant to Civil Local Rule 16-10(d) and the Court's July 15, 2022 Minute Order (ECF No. 3347), counsel for Defendants Juul Labs, Inc. ("JLI"), Altria,¹ Director Defendants,² E-Liquid Defendants,³ Retailer Defendants,⁴ and Distributor Defendants⁵ (collectively

¹ "Altria" refers to Altria Group, Inc., and the Altria-affiliated entities named in Plaintiffs' Consolidated Class Action Complaint and Consolidated Master Complaint (collectively, "Complaints"), *see* ECF Nos. 387, 388.

² "Director Defendants" refers to Messrs. James Monsees, Adam Bowen, Nicholas Pritzker, Hoyoung Huh, and Riaz Valani.

³ "E-Liquid Defendants" refers to Mother Murphy's Labs, Inc., Alternative Ingredients, Inc., Tobacco Technology, Inc., and Eliquitech, Inc.

⁴ "Retailer Defendants" refers to Chevron Corporation, Circle K Stores, Inc., Speedway LLC, 7-Eleven, Inc., Walmart, and Walgreen Co.

⁵ "Distributor Defendants" refers to McLane Company, Inc., Eby-Brown Company, LLC, and Core-Mark Holding Company, Inc.

1 “Defendants”), and Plaintiffs’ Co-Lead Counsel (“Plaintiffs”) (collectively referred to herein as
 2 the “Parties”) respectfully provide this Joint Case Management Statement in advance of the
 3 Further Case Management Conference scheduled for August 26, 2022.

4 **I. PARTICIPANT INFORMATION**

5 The August 26, 2022 CMC will proceed by Zoom. Anyone who wishes to attend the
 6 conference virtually must log in using the information available at:
 7 <https://www.cand.uscourts.gov/judges/orrick-william-h-who/>.

8 **II. ISSUES TO BE DISCUSSED BELOW AND PROPOSED AGENDA**

9 1. Status of Case Filings and Dismissals
 10 2. Case Management Matters
 11 3. ADR Status

12 **III. STATUS OF CASE FILINGS AND DISMISSALS**

13 As of August 20, 2022, approximately 3,895⁶ cases are pending in this MDL, naming 120
 14 defendants. A list of these defendants is attached as **Exhibit A**. To date, 2,724 personal injury
 15 cases and 1,117 government entity cases (including 1,062 school districts, 24 counties, 2 cities,
 16 and 29 tribes) have been filed in this MDL. 806 MDL plaintiffs have voluntarily dismissed their
 17 cases (797 personal injury plaintiffs, 26 class plaintiffs, and 2 school districts); 73 cases have
 18 been dismissed without prejudice pursuant to CMO No. 8; and 35 other cases are subject to
 19 pending motions to dismiss without prejudice that have not yet been ruled upon. Furthermore,
 20 210 case dismissals without prejudice have been converted to dismissals with prejudice pursuant
 21 to CMO No. 8.

22 There are 645 complaints pending in JCCP 5052, which is assigned to Judge David S.
 23 Cunningham of the Los Angeles Superior Court as the Coordination Trial Judge. There are 86
 24 government entity cases, including 81 school districts, and 557 personal injury cases brought on
 25
 26

27 ⁶ The numbers in this Statement reflect the Parties’ good faith estimates based on reasonably
 28 available information. The Parties will continue to work together to align their data and resolve
 any inconsistencies.

1 behalf of over 3,639 individual personal injury plaintiffs. There are 26 defendants named in those
 2 JCCP cases.

3 The Parties are also aware of 13 pending cases filed by State Attorneys General
 4 specifically: California, Illinois, Hawai'i, New York, Mississippi, Minnesota, Washington D.C.,
 5 Pennsylvania, New Mexico, Massachusetts, Colorado, and Alaska; in addition, the State Attorney
 6 General of North Carolina filed a case against Director Defendants. Plaintiffs' Liaison Counsel
 7 continue their outreach to various State Attorneys General to discuss cooperation with this MDL.

8 An update on matters of significance (including hearings, schedules, deadlines,
 9 depositions, substantive orders, and trial dates) in Related Actions as defined by the Joint
 10 Coordination Order (CMO 9, ECF No. 572 at 1, 3), is attached as **Exhibit B**.

11 **IV. CASE MANAGEMENT MATTERS**

12 On July 15, 2022, the Court set the order of trials through September 5, 2023. (ECF No.
 13 3347 at 1)

14 **A. Personal Injury Bellwether Trials**

15 In June 2022, 15 "round two" bellwether trial candidates were selected. The parties are
 16 continuing to meet-and-confer on proposed scheduling and sequencing of additional personal
 17 injury bellwether trials. Among other things, the parties have met and conferred on an amended
 18 discovery schedule for the round two picks and reached agreement on the below dates:

19 Core discovery: February 24

20 Strikes: March 3

21 Letters: March 24

22 The parties agree at this juncture that remand to home courts for those cases over which
 23 this Court does not have personal jurisdiction is not necessary as Plaintiffs believe there are
 24 sufficient diverse types of cases in the bellwether pool over which this Court has jurisdiction, and
 25 Defendants think that it is premature to remand at this time.

26 **B. Government Entity Bellwether Schedule**

27 On July 20, 2022, the Court entered a stipulated order (Dkt. No. 3352) setting out certain
 28 pretrial deadlines in *San Francisco Unified School District v. Juul Labs, Inc., et al.*, which is set

1 for trial on November 7, 2022. The parties are proceeding in accordance with that schedule and
 2 informed by the Court's prior guidance with respect to the *BB trial*, and are coordinating among
 3 themselves with respect to related interim deadlines. To aid the parties' coordination, Plaintiffs
 4 seek to discuss with the Court certain logistical questions related to *voir dire*, the presentation of
 5 deposition cuts, and the schedule at trial. Plaintiffs have not discussed these issues with
 6 Defendants, who believe that the parties should meet and confer and raise logistical questions
 7 concerning trial with the Court at the final pretrial conference.

8 One issue that has arisen with respect to the schedule is a delay in the deposition of one of
 9 Plaintiff's infrastructure experts due to health issues. That deposition has been rescheduled to
 10 August 24, and the parties have agreed that (1) Defendants' relevant rebuttal reports will be
 11 submitted by August 29; (2) Daubert motions regarding infrastructure issues (with respect to
 12 Plaintiff's experts and any rebuttal experts) will be filed on September 12; (3) responses will be
 13 filed on October 3; and (4) replies will be filed on October 10.

14 On or about August 15, each of the Defendants filed a motion for summary judgment.
 15 Once summary judgment replies are filed on September 26, the motions will be fully
 16 briefed. Defendants urge the Court to set a hearing date for those motions at its earliest
 17 convenience after September 26. If helpful for the Court, the parties will be prepared to discuss
 18 the issue at the upcoming CMC.

19 **C. Class Action Case**

20 On July 11 and 12, 2022, the class defendants filed timely petitions for permission to
 21 appeal with the U.S. Court of Appeals for the Ninth Circuit. Those petitions are now fully briefed
 22 and await the Ninth Circuit's ruling.

23 Plaintiffs filed their proposed notice plan on August 12 (Dkt. No. 3381), and the parties
 24 made a joint submission to the Court on August 18 that outlines defendants' objections to the
 25 notice plan and plaintiffs' responses to those objections. Plaintiffs will propose specific dates for
 26 the deadlines set out on pages 11 and 12 of the notice plan promptly after the Court's ruling on
 27 Defendants' objections, or at the Court's convenience.

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1 The parties are conferring regarding the Class pretrial schedule and will make a proposal
 2 to the Court when discussions conclude.

3 **D. Plaintiffs' Positions on Remand**

4 Per the Court's request, Plaintiffs provide their view of potential cases for remand. There
 5 are six government entity bellwethers—four school districts and two counties/cities—that have
 6 completed discovery and are ready for trial. Two of those school districts—San Francisco
 7 Unified School District (SFUSD) and Tucson Unified School District—are set for trial before
 8 Your Honor in November 2022 and September 2023, respectively. Plaintiffs propose that
 9 following completion of the SFUSD trial, the Court remand the two remaining bellwether school
 10 districts (School Board of Palm Beach County and the Goddard School District). Defendants
 11 have indicated that they will not execute *Lexecon* waivers for these school districts, so there is
 12 nothing to be gained by remaining in the JUUL MDL. Given the potential delay from when the
 13 cases are remanded to when they will be tried in their home districts, remanding Palm Beach and
 14 Goddard after completion of the SFUSD trial will give these plaintiffs their day in court while
 15 giving the transferor courts the benefit of Your Honor's adjudication of the SFUSD case.

16 Plaintiffs are not seeking remand of the other bellwether cases—King County and City of
 17 Rochester—at this time. Given Your Honor's familiarity with these complex cases, plaintiffs
 18 believe it would be most efficient for Your Honor to try the King County case, and potentially the
 19 Rochester case as well, before considering remands of any county/city cases. Plaintiffs request
 20 that Your Honor set King County for trial as soon as practicable.

21 Defendants' position is that the question of remand is premature for discussion with the
 22 Court at this point, as discussion of these issues among the parties began only in the past few
 23 days. Defendants believe that the possibility of remand should be discussed in a systematic rather
 24 than *ad hoc* fashion, and propose that the parties continue discussion and report to the Court at the
 25 next Case Management Conference.

26 **E. Tribal Discovery**

27 Pursuant to the Court's January 24, 2022 Order Entering Parties' Proposed Tribal Case
 28 Schedule and Bellwether Selection Process (Dkt. No. 2794), discovery has commenced for the

1 three Bellwether Tribal Plaintiffs (collectively, “Tribes”). On August 10, 2022, the Tribes served
2 their First Interrogatories on all Defendants. JLI served its First Sets of Requests for Production
3 on the Tribes on August 16, and its Amended First Set of Interrogatories on August 17. On
4 August 19, Defendant Altria Group, Inc. served its First Sets of Interrogatories and Requests for
5 Production on the Tribes. Per the Court’s July 28, 2022 Order Entering the Parties’ Joint
6 Stipulation to Amend Tribal Case Schedule (Dkt. No. 3358), case-specific fact discovery in the
7 Bellwether Tribal cases closes on March 6, 2023.

8 Defendant JLI filed its Motion for Partial Dismissal of Cheyenne & Arapahoe Tribes’s
9 Claims (Dkt. No. 3359) on July 28, 2022; the response is due on August 29, and any reply is due
10 September 19.

11 **D. ADR STATUS**

12 Pursuant to Civil Local Rule 16-10(d), the Parties report that they continue to confer with
13 Settlement Master Thomas J. Perrelli and cooperate with his recommendations.

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1 Dated: August 24, 2022

Respectfully submitted,

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3 By: /s/ David M. Bernick

4 David M. Bernick (*pro hac vice*)
5 **KIRKLAND & ELLIS LLP**
6 300 N. LaSalle
7 Chicago, IL 60654
Telephone: (312) 862-2310

By: /s/ Sarah R. London

Sarah R. London
LIEFF CABRASER HEIMANN &
BERNSTEIN
275 Battery Street, Fl. 29
San Francisco, CA 94111
Telephone: (415) 956-1000

8 By: /s/ Renee D. Smith

9 Renee D. Smith (*pro hac vice*)
10 **KIRKLAND & ELLIS LLP**
11 300 N. LaSalle
12 Chicago, IL 60654
Telephone: (312) 862-2310

By: /s/ Dena C. Sharp

Dena C. Sharp
GIRARD SHARP LLP
601 California St., Suite 1400
San Francisco, CA 94108
Telephone: (415) 981-4800

13 By: /s/ Peter A. Farrell

14 Peter A. Farrell (*pro hac vice*)
15 **KIRKLAND & ELLIS LLP**
16 1301 Pennsylvania Ave, N.W.
17 Washington, D.C. 20004
Telephone: (202) 389-5959

By: /s/ Dean Kawamoto

Dean Kawamoto
KELLER ROHRBACK L.L.P.
1201 Third Ave., Ste. 3200
Seattle, WA 98101
Telephone: (206) 623-1900

18 By: /s/ Gregory P. Stone

19 Gregory P Stone, SBN 78329
20 Bethany W. Kristovich, SBN 241891
21 **MUNGER, TOLLES & OLSON LLP**
22 350 South Grand Avenue
Fiftieth Floor
Los Angeles, California 90071-3426
Telephone: (213) 683-9100

By: /s/ Ellen Relkin

Ellen Relkin
WEITZ & LUXENBERG
700 Broadway
New York, NY 10003
Telephone: (212) 558-5500

23 *Attorneys for Defendant Juul Labs, Inc.*

Co-Lead Counsel for Plaintiffs

24
25
26
27
28

1
2 By: /s/ John C. Massaro

3 **ARNOLD & PORTER KAYE SCHOLER**
4 **LLP**

5 John C. Massaro (admitted pro hac vice)
6 Jason A. Ross (admitted pro hac vice)
7 601 Massachusetts Ave., N.W.
8 Washington D.C. 20001
Telephone: (202) 942-5000
Facsimile: (202) 942-5999
john.massaro@arnoldporter.com
Jason.ross@arnoldporter.com

9 *Attorneys for Defendants Altria Group, Inc.*
10 *and Philip Morris USA Inc.*

11 By: /s/ Beth A. Wilkinson

12 Beth A. Wilkinson (pro hac vice)
13 Brian L. Stekloff (pro hac vice)
14 James M. Rosenthal (pro hac vice)
Matthew Skanchy (pro hac vice)
15 **WILKINSON STEKLOFF LLP**
16 2001 M Street NW, 10th Floor
Washington, DC 20036
Telephone: (202) 847-4000
bwilkinson@wilkinsonstekloff.com
bstekloff@wilkinsonstekloff.com
jrosenthal@wilkinsonstekloff.com

17 Moira K. Penza (pro hac vice)
18 **WILKINSON STEKLOFF LLP**
19 130 West 42nd Street, 24th Floor
New York, NY 10036
20 Telephone: 212-294-8910
mpenza@wilkinsonstekloff.com

21 *Attorneys for Defendants Altria Group, Inc.,*
22 *Philip Morris USA Inc., Altria Client Services*
23 *LLC, Altria Group Distribution Company, and*
24 *Altria Enterprises LLC*

25
26 By: /s/ James Kramer

27 **ORRICK HERRINGTON &**
28 **SUTCLIFFE LLP**

James Kramer
The Orrick Building
405 Howard Street
San Francisco, CA 94105-2669
Telephone: (415) 773-5700
jkramer@orrick.com

and

Lauren Seaton
Main St Ste 1100
Irvine, CA 92614
Telephone: (949) 567-6700
lseaton@orrick.com

Attorneys for Defendant James Monsees

1 By: /s/ Eugene Illovsy

2 **BOERSCH & ILLOVSKY LLP**

3 Eugene Illovsy
4 Martha Boersch
5 Matthew Dirkes
6 1611 Telegraph Ave., Suite 806
7 Oakland, CA 94612
Telephone: (415) 500-6643
eugene@boersch-illovsy.com
martha@boersch-illovsy.com
matt@boersch-illovsy.com

8 *Attorneys for Defendant Adam Bowen*

By: /s/ Michael J. Guzman

**KELLOGG, HANSEN, TODD, FIGEL &
FREDERICK, P.L.L.C.**

Mark C. Hansen
Michael J. Guzman
David L. Schwartz
Sumner Square, 1615 M St., N.W., Suite 400
Washington, DC 20036
Telephone: (202) 326-7910
mguzman@kellogghansen.com

*Attorneys for Defendants Nicholas Pritzker,
Riaz Valani, and Hoyoung Huh*

11 By: /s/ Mitchell B. Malachowski

12 **TYSON & MENDES, LLP**

13 James E. Sell
14 Mitchell B. Malachowski
15 Stephen Budica
16 April M. Cristal
17 523 4th Street, Suite 100
San Rafael, CA 94901
Telephone: (628) 253-5070
jsell@tysonmendes.com
mmalachowski@tysonmendes.com
sbudica@tysonmendes.com
acristal@tysonmendes.com

18 *Attorneys for Defendants Mother Murphy's
Labs, Inc., and Alternative Ingredients, I*

By: /s/ Robert Scher

FOLEY & LARDNER LLP

Robert Scher
Peter N. Wang
Graham D. Welch
Dyana K. Mardon
90 Park Avenue
New York, NY 10016-1314
Telephone: (212) 682-7474
Facsimile: (212) 687-2329
rscher@foley.com
pwang@foley.com
gwelch@foley.com
dmardon@foley.com

*Attorney for Defendants Tobacco
Technology, Inc., and Eliquitech, Inc.*

1 By: /s/ Michael L. O'Donnell

2 **WHEELER TRIGG O'DONNELL LLP**

3 Michael L. O'Donnell
4 James E. Hooper
5 Marissa Ronk
6 370 17th Street, Ste. 4500
7 Denver, CO 80202
Telephone: (303) 244-1850
Odonnell@wtotrial.com
hooper@wtotrial.com
Ronk@wtotrial.com

8 *Attorneys for Defendant McLane Company,
9 Inc.*

10 By: /s/ Christopher J. Esbrook

11 **ESBROOK LAW P.C.**

12 Christopher J. Esbrook
13 David F. Pustilnik
14 Michael S. Kozlowski
15 77 W. Wacker, Suite 4500
16 Chicago, IL 60601
Telephone: (312) 319-7681
christopher.esbrook@esbrooklaw.com
david.pustilnik@esbrooklaw.com
michael.kozlowski@esbrooklaw.com

17 *Attorneys for Defendants Eby-Brown
18 Company, LLC, Circle K Stores, and 7-
19 Eleven, Inc., Speedway, and Walgreen Co.*

20 By: /s/ David R. Singh

21 **WEIL, GOTSHAL & MANGES LLP**

22 David R. Singh
Bambo Obaro
23 201 Redwood Shores Parkway, 6th Floor
Redwood Shores, CA 94065
Telephone: (650) 802-3083
david.singh@weil.com
bambo.obaro@weil.com

24 *Attorneys for Defendant Core-Mark Holding
25 Company, Inc.*

1 By: /s/ Donald F. Zimmer, Jr.

2 **KING & SPALDING LLP**

3 Donald F. Zimmer, Jr.
4 Quyen L. Ta
5 Jennifer T. Stewart
50 California Street, Suite 3300
5 San Francisco, CA 94111
6 Telephone: (415) 318-1200
6 fzimmer@kslaw.com
7 qta@kslaw.com
7 jstewart@kslaw.com

8 *Attorneys for Defendant Walmart Inc.*

9 By: /s/ Charles C. Correll Jr.

10 **KING & SPALDING LLP**

11 Andrew T. Bayman (Admitted *pro hac vice*)
1180 Peachtree Street, Suite 1600
12 Atlanta, GA 30309
12 Telephone: (404) 572-4600
13 abayman@kslaw.com

14 and

15 Charles C. Correll, Jr.
15 Matthew J. Blaschke
15 Alessandra M. Givens
16 50 California Street, Suite 3300
16 San Francisco, CA 94111
17 Telephone: (415) 318-1200
18 ccorrell@kslaw.com
18 mblaschke@kslaw.com
19 agivens@kslaw.com

20 *Attorneys for Defendant Chevron Corporation*

21

22

23

24

25

26

27

28